

FISCAL NOTE

Bill #: HB0686

Title: Video game and movie transaction tax for funding after-school programs

Primary Sponsor: Parker, J

Status: As Introduced

Sponsor signature

Date

David Ewer, Budget Director

Date

Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
General Fund	\$593,829	\$102,575
State Special Revenue	\$3,851,192	\$3,851,192
Revenue:		
General Fund Revenue	\$0	\$0
State Special Revenue	\$3,851,192	\$8,691,077
Net Impact on General Fund Balance:	(\$593,829)	(\$102,575)

- | | |
|---|---|
| <input type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

Department of Revenue (DOR)

1. HB 686 would add a \$0.25 transaction tax on each video game or movie unit rented, leased, sold, or transferred by other arrangement for a charge. The money would be deposited in a special revenue account, administered by the Montana Board of Crime Control (MBCC), for providing after-school programs.
2. This bill defines "video or movie" as any form of electronic or digital media that is commercially recorded for audio and video reproduction on a television, computer, stereo, or other entertainment system. This definition is not clear as to whether cable, Internet, and satellite providers are included. However, since these videos and movies are not provided for "reproduction", but actually delivered via television, computer, or stereo, it is assumed these sales are excluded from the transaction tax.
3. A study was conducted by the Bureau of Business and Economic Research at the University of Montana on the Montana video, movie, video game, and music markets to forecast revenue from a transaction tax. The primary methodology used in the study was to apportion national video, DVD, and video gaming sales to Montana based on the state's population. Results from this are as follows on the next page:

Fiscal Note Request HB0686, As Introduced
(Continued)

	<u>2003 Units</u> (Estimated)	<u>Market Growth</u> <u>Rate</u>	<u>2004 Units</u> (Projected)
VHS			
Units Rented	8,955,224	10%	9,850,746
Units Bought	1,259,748	10%	1,385,723
DVDs			
Units Rented	3,880,597	40%	5,432,836
Units Bought	1,781,296	40%	2,493,814
Video Games	<u>970,588</u>	20%	<u>1,164,706</u>
Total	<u>16,847,453</u>		<u>20,327,825</u>

4. The study indicates that the positive growth rates are expected to continue, “given the strong growth in the DVD and video game market along with modest but positive growth in the VHS market.” Assuming a continuation of the market growth rates used in the study, the projected units for CY 2005, CY 2006, and CY 2007 are as follows:

	<u>2004 Units</u> (Projected)	<u>Growth</u> <u>Rate</u>	<u>2005 Units</u> (Projected)	<u>2006 Units</u> (Projected)	<u>2007 Units</u> (Projected)
VHS					
Units Rented	9,850,746	10%	10,835,821	11,919,403	13,111,343
Units Bought	1,385,723	10%	1,524,295	1,676,725	1,844,397
DVDs					
Units Rented	5,432,836	40%	7,605,970	10,648,358	14,907,701
Units Bought	2,493,814	40%	3,491,340	4,887,876	6,843,027
Video Games	<u>1,164,706</u>	20%	<u>1,397,647</u>	<u>1,677,176</u>	<u>2,012,611</u>
Total	<u>20,327,825</u>		<u>24,855,073</u>	<u>30,809,538</u>	<u>38,719,080</u>

5. Multiplying the projected 2006 units by the \$0.25 transaction fee results in revenues of \$7,702,385 in CY 2006 and \$9,679,770 in CY 2007.
6. The effective date of this bill is January 1, 2006. The bill requires sellers to file a report and remit tax payments within 30 days following the end of the calendar quarter.
7. Revenue in FY 2006 would be \$3,851,192 representing the tax collections from the first and second quarters of CY 2006. For FY 2007, collections would be \$8,691,077 representing tax collections from the third and fourth quarter of CY 2006 and the first and second quarter of CY 2007.
8. The DOR would require an additional 2.00 FTE in FY 2006, including full-time and seasonal workers to administer this program. One of the FTE in FY 2006 would actually be 6-8 seasonal employees split out over each quarter and process, equating to 1.00 FTE. The other FTE in 2006 is for a full-time employee to assist with auditing and compliance. For FY 2007, 3.00 FTE would be required with seasonal workers employed through a full year, equating to 2.00 FTE. Total personal services and operating expenditures

Fiscal Note Request HB0686, As Introduced

(Continued)

associated with these FTE as provided below are estimated as \$93,829 for FY2006 and \$102,575 for FY2007.

9. The DOR would also require modifications to existing information systems to implement this tax. If one thousand or more establishments are subject to this tax (See Technical Note 4), estimated costs for modification are \$500,000 assuming stand-alone development. Cost savings could be achieved by developing this tax in conjunction with other tax types.

Montana Board of Crime Control (MBCC)

10. MBCC costs are estimated based upon six months for FY2006.
 11. Grants would be awarded on a competitive basis to fund after school programs.
 12. The average cost of a program would be approximately \$120,000.
 13. MBCC would be able to award and administer approximately 70 programs in the second year.
 14. The board estimates the need for 1.5 FTE in FY 2006 and 3.00 FTE in FY 2007 with costs of \$81,958 and \$163,916 respectively.
 15. The operating costs for administration of this program are estimated at \$20,780 in FY 2006 and \$31,161 in FY 2007.
 16. The remaining expenditures would be grants and those are estimated at \$3,748,454 in FY 2006 and \$8,496,000 in FY 2007.

FISCAL IMPACT:**Department of Revenue**

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
FTE	2.00	3.00

Expenditures:

Personal Services	\$55,875	\$72,904
Operating Expenses	\$32,154	\$29,671
One time IT modifications in FY 2006	\$500,000	\$0
Equipment	<u>\$5,800</u>	<u>\$0</u>
TOTAL	\$593,829	\$102,575

Funding of Expenditures:

General Fund (01)	\$593,829	\$102,575
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Revenues:

General Fund (01)	\$0	\$0
State Special Revenue (0)	\$3,851,192	\$8,691,077

Montana Board of Crime Control

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
FTE	1.50	3.00
Personal Services	81,958	163,916
Operating Expenses	\$20,780	\$31,161

Fiscal Note Request HB0686, As Introduced

(Continued)

Grants	<u>\$3,748,454</u>	<u>\$8,496,000</u>
TOTAL	\$3,851,192	\$8,691,077

Funding of Expenditures:

State Special Revenue (02)	\$3,851,192	\$8,691,077
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Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$593,829)	(\$102,575)
State Special Revenue Fund (02)	\$0	\$0

LONG-RANGE IMPACTS:

This bill will continue to have significant impacts for years beyond the biennium. The amount of impact will be influenced by future demand for video game and movie products subject to this tax.

TECHNICAL NOTES:

1. Section 3 of this bill appropriates \$9.4 million from the state special revenue account created in Section 1 of the bill to the MBCC for each year of the biennium, which is more than the estimated revenue collections from the transaction tax in both years of the biennium. The estimated over-appropriation is \$5,548,808 in FY 2006 (\$9,400,000 - \$3,851,192) and \$708,923 in FY 2007 (\$9,400,000 - \$8,691,077).
2. The bill does not provide a clear definition of what constitutes a video game or movie "unit". Also, the terms "commercially recorded" and "entertainment system" are not concisely defined.
3. In Section 1 (3) the phrase "commercially recorded for audio and video reproduction" could be interpreted as a product copied for wholesale distribution, as opposed to a product supplied to an end-user.
4. It is somewhat unclear as to whether the responsibility for paying the tax rests with the seller or the buyer. Under Section 1(1) the bill states the seller shall pay the transaction tax; however, in Section 1(2) it says the seller shall collect the tax.
5. Additional clarification is needed as to which sellers will be subject to the transaction tax. Currently, it is unclear as to whether cable, Internet, and satellite providers are subject to the tax.
6. In Section 2, the bill indicates the seller must "report to the department gross receipts collected due to video game and movie charges". The gross receipts figure is not relevant to the transaction tax proposed, since the tax is on a unit basis rather than a percentage of gross sales. The Department would be unable to confirm the taxes remitted were sufficient without knowing the number of units rented, sold, leased, or transferred
7. Although the bill states, in Section 5, that the provisions of Title 15, Chapter 68, MCA, apply for the administration and enforcement of this tax, this bill does not amend 15-68-102, MCA, to include this tax among those that must currently be collected under 15-68-110, MCA.
8. This bill instructs that revenues collected from the transaction tax be deposited in a special revenue account. However, the bill does not amend 15-1-501, MCA, to specify the disposition of transaction taxes into this account.
9. There is no defined penalty for failure by a seller to file a report / remit taxes.
10. No allowance is provided to the seller for collection and administration of the tax.
11. Current bill language does not provide specific rule-making authority to the DOR for implementation of this tax.
12. Codification instructions place Section 1 into the tax code without specifying where in the tax code it should be incorporated.
13. The bill does not specify the actual starting date when sales would be subject to the transaction tax.